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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,401	04/11/2001	Roman S. Ferber	HOME 0459 PUS	3432

7590

05/28/2003

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EXAMINER

MATHEW, FENN C

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 05/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/833,401

Applicant(s)

FERBER ET AL.

Examiner

Fenn Mathew

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-7 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stern (U.S. Patent No. 4,962,759) in view of Fujimoto (U.S. Patent No. 5,611,772). Referring to claims 1, 3-7 and 10-11, Stern discloses an air mat system comprising an air pump/controller (22), a mat (20), a hose (24), switches (column 4, lines 21-24), and a heating element (120), but does not show the remote control. Fujimoto discloses an analogous device including an air mat (10), a pump, and a cordless, infrared remote control (column 5, lines 1-34). It would have been obvious to one having ordinary skill in the art at the time of invention to provide the Stern device with a remote control as taught by Fujimoto in order to provide convenience and ease of use.
3. Referring to claim 2, the modified Stern apparatus discloses the remote control maintaining communication through an infrared transmitter. (See sections cited above).
4. Referring to claim 6-7, limitations regarding various control parameters and programs are considered obvious design choices, well within the knowledge of a skilled artisan to suit various needs and applications as deemed fit by the user.
5. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stern and Fujimoto as applied to claim 1 above, and further in view of Voorlas (U.S. Patent No. 3,420,227). The modified Stern device discloses all the structural limitations except for the flexible material. Voorlas shows a similar device using a flexible mat. It would

have been obvious to use a flexible mat because both mats are considered obvious art-recognized massage mat alternatives, known to one of ordinary skill absent any unexpected or undesired results.

6. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stern and Fujimoto as applied to claim 1 above, and further in view of Kvalvik (U.S. Patent No. 5,715,546). The modified Stern device discloses the claimed invention except for suction cups. Kvalvik teaches suction cups (22) in a bath mat. It would have been obvious to one having ordinary skill in the art at the time of invention to provide the modified Stern device with suction cups as taught by Kvalvik in order to provide convenient removable attachment means to facilitate stability and minimize slippage.

7. Claims 14-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voorlas in view of Schwertner (DE 19960473). Voorlas shows an air bubble massage mat comprising a flexible vinyl member (cls. 15, 21) having two layers (11) (cls. 16, 22) secured/bonded together forming passageways, a receptacle (19), and holes (21) allowing inflation (cls. 17, 23), but does not show the blocks/foam members.

Schwertner teaches an air bubble massage mat including a series of sealed foamed cushioning members (1) adjacent to air passages. (Inherently cushioning members are sealed since mat is submerged in water). It would have been obvious to one having ordinary skill in the art at the time of invention to provide the mat of Voorlas with sealed foamed cushioning members as taught by Schwertner in order to cushion a user laying on the mat.

***Respons to Arguments***

8. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lin U.S. Patent No. 6,183,430

Mikiya et al. U.S. Patent No. 4,269,797

Wu U.S. Patent No. 6,277,086

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn Mathew whose telephone number is (703) 305-2846. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

*fcM*

fcM

May 17, 2003

NICHOLAS D. LUCCHESI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700